

AS

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 97-115-C - ORDER NO. 97-576

JULY 7, 1997

IN RE: Application of MCImetro Access) ORDER
Transmission Services, Inc. for a) APPROVING
Certificate of Public Convenience and) CERTIFICATE
Necessity to Provide Various Resold and)
Facilities-Based Local Exchange Tele-)
communications and Exchange Access)
Services throughout the State of)
South Carolina.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of MCImetro Access Transmission Services, Inc. ("MCImetro" or "the Company"). The Application requests that the Commission issue to MCImetro a Certificate of Public Convenience and Necessity authorizing MCImetro to provide resold and facilities-based local exchange telecommunications services and exchange access services, including intraLATA intrastate long distance services, throughout the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated April 7, 1997, the Commission's Executive Director instructed MCImetro to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the

Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. MCImetro complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth"), the South Carolina Telephone Coalition ("SCTC"), and the Consumer Advocate for the State of South Carolina ("Consumer Advocate").

A hearing was convened on June 19, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. MCImetro was represented by John M. S. Hoefer, Esquire. The Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. BellSouth did not appear at the hearing.

Prior to the hearing, MCImetro and the SCTC executed a Stipulation dated May 2, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. At the hearing, MCImetro requested that the Stipulation be made a part of the record and requested approval of the Stipulation. The Stipulation provides the following:

(1) The SCTC did not oppose the granting of a statewide Certificate of Public Convenience and Necessity to MCImetro if the Commission made the necessary findings to grant the Certificate

and if all stipulated conditions are met;

(2) MCImetro agreed that any Certificate granted by the Commission will authorize MCImetro to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) MCImetro agreed that it did not request the Commission to find whether competition is in the public interest for rural areas;

(4) MCImetro agreed that it would not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until MCImetro provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. MCImetro also acknowledged that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) MCImetro agreed that if, after MCImetro gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State

law, or the Commission institutes a proceeding of its own, then MCImetro will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) MCImetro acknowledged that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) MCImetro and the SCTC agreed that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) MCImetro agreed to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and MCImetro and was filed with the Commission prior to the hearing in this matter. We therefore accept the stipulation.

In support of its Application, MCImetro presented Greg Darnell to testify. Mr. Darnell is Regional Manager of

Competition Policy for MCI Telecommunications Corporation. The purpose of Mr. Darnell's testimony was to (1) present evidence on the technical, managerial, and financial abilities of MCImetro to provide local exchange telecommunications services in South Carolina, (2) to describe the services MCImetro proposes to offer, and (3) to show that the public interest will be served by approval of MCImetros' Application.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, MCImetro's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by MCImetro should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that MCImetro possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate MCImetro's technical qualifications, Mr. Darnell testified that MCImetro will utilize the technical expertise of the underlying carrier when acquiring unbundled elements from a carrier or when reselling a carrier's services.

In addition, Mr. Darnell stated that MCImetro's own in-house abilities will be used to augment the expertise and technical assistance obtained from the underlying carrier. Further, Mr. Darnell stated that when MCImetro begins to provide facility based local service, it will rely on its own in-house abilities and may augment its expertise with service contracted with an Incumbent Local Exchange Carrier. Concerning MCImetro's managerial qualifications, Mr. Darnell testified that MCImetro's management team has considerable experience in business management, finance, telecommunications, marketing, and engineering. Regarding MCImetro's financial resources, the record reveals that MCImetro is organized under the laws of the State of Delaware. Mr. Darnell testified that MCImetro has more than sufficient financial resources to provide the services for which MCImetro seeks authority. Mr. Darnell stated that MCImetro is a wholly-owned subsidiary of MCImetro, Inc. which is a wholly-owned subsidiary of MCI Telecommunications Corporation ("MCIT"). No other party offered any evidence in opposition to Mr. Darnell's testimony. Based on the undisputed evidence of the record, the Commission finds that MCImetro possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that MCImetro will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Darnell testified that MCImetro seeks to provide local switched and private line telecommunications services. Mr. Darnell specifically stated that

MCImetro will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that MCImetro fully intends to meet the Commission's service standards. Mr. Darnell also testified to the Company's ability to handle customer service requests. No party offered any evidence to dispute Mr. Darnell's testimony. Based on the undisputed testimony from Mr. Darnell, the Commission believes, and so finds, that MCImetro will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that MCImetro's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Darnell's prefiled testimony reveals that MCImetro anticipates that approval of its Application will enhance telecommunications competition in South Carolina. Mr. Darnell further offered that competition would encourage technological innovation and efficient use of resources and that price competition would enable consumers to obtain the services they desire at reasonable prices. No party offered any evidence that the provision of local exchange service by MCImetro would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by MCImetro will not adversely impact affordable local exchange service.

(4) The Commission finds that MCImetro will support universally available telephone service at affordable rates. S.C.

Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Darnell testified that MCImetro will comply with the Commission's universal service requirements. No party disputed Mr. Darnell's testimony. Based on the undisputed evidence of record, the Commission finds that MCImetro will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by MCImetro "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Darnell offered that the competition of MCImetro offering services in South Carolina will benefit customers. Further, Mr. Darnell offered that certification of MCImetro to provide local exchange service would increase competition in the South Carolina telecommunications marketplace thereby ensuring a wide variety of services and prices and increased customer choice. Mr. Darnell's testimony was undisputed as no party offered any evidence that approval of MCImetro's Application would adversely impact the public interest. Therefore, the Commission finds that approval of MCImetro's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by MCImetro should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of MCImetro for a Certificate of Public

Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services and exchange access services, including intraLATA intrastate long distance services, throughout the State of South Carolina is approved.

2. MCImetro shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which MCImetro agreed with the Commission Staff.

3. MCImetro shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, MCImetro shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. MCImetro shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, MCImetro shall promptly notify the Commission in writing if the representatives are replaced. MCImetro is directed to comply with all Commission regulations unless expressly waived by the Commission.

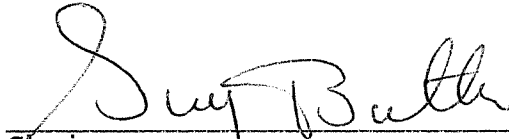
4. MCImetro shall conduct its business in accordance with

Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

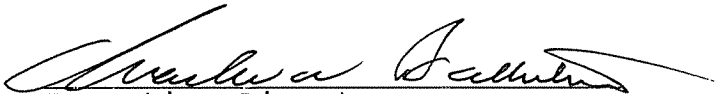
5. The Stipulation filed by MCImetro and the SCTC is approved by this Commission, is binding upon MCImetro and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES:**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230